

AMENDED IN SENATE AUGUST 22, 2005

AMENDED IN SENATE JULY 14, 2005

AMENDED IN SENATE JUNE 14, 2005

AMENDED IN ASSEMBLY APRIL 25, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 14

Introduced by Assembly Member Harman

December 6, 2004

An act to ~~add Section 1174 to the Civil Code, and to amend Sections 2188.7 and 2823 of, and to add Section 327.5 to, the Revenue and Taxation Code, relating to property taxation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 14, as amended, Harman. Property tax: subdivisions: separate assessments and valuations.

~~Existing law regulates common interest developments and requires that certain documents be recorded for a common interest development to be created, including a condominium plan, under specified conditions.~~

~~This bill would prohibit a recorder from recording a condominium plan, as defined, unless the condominium plan contains an attachment with the signature of the planning director of the appropriate city or county, as provided, certifying that the condominium plan complies with all conditions imposed by the local agency for that project.~~

Existing law provides for the creation of an assessor's office in each county, and requires the assessor's office to determine the new base year value for taxable real property that has been newly constructed. Existing law provides for the separate assessment of any parcel on the

current tax roll and for specified classes of real property, and authorizes a payment of taxes on any parcel of real property separately from the whole assessment, if that parcel is either described in any duly executed and recorded deed or other specified document or has a separate valuation on the current roll, as provided.

The bill would prohibit an assessor from assigning parcel numbers or preparing a separate assessment or separate valuation to divide any existing residential structure into a subdivision, as defined, until a subdivision final map or parcel map, as specified, has been recorded as required by law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1174 is added to the Civil Code, to~~
2 ~~read:~~

3 ~~1174. A recorder shall not record a document entitled “a~~
4 ~~condominium plan” or “condominium plans,” as defined in~~
5 ~~subdivision (c) of Section 1351 of the Civil Code, unless the~~
6 ~~condominium plan contains an attachment with the signature of~~
7 ~~the planning director of the appropriate city or county, or his or~~
8 ~~her designee, certifying that the condominium plan complies with~~
9 ~~all conditions imposed by the local agency for that project.~~

10 ~~SEC. 2.~~

11 ~~SECTION 1. Section 327.5 is added to the Revenue and~~
12 ~~Taxation Code, to read:~~

13 ~~327.5. Notwithstanding any other provision of law, the~~
14 ~~assessor shall not assign any parcel numbers or prepare a~~
15 ~~separate assessment or separate valuation to divide any existing~~
16 ~~residential structure into a subdivision, as defined in Section~~
17 ~~66424 of the Government Code, until a subdivision final map or~~
18 ~~parcel map, as described in Sections 66434 and 66445,~~
19 ~~respectively, of the Government Code has been recorded as~~
20 ~~required by law. If the requirement for a parcel map is waived~~
21 ~~pursuant to subdivision (b) of Section 66428 of the Government~~
22 ~~Code, then the assessor shall not assign any parcel numbers or~~
23 ~~prepare a separate assessment or separate valuation, unless the~~
24 ~~applicant provides a copy of the finding made by the legislative~~
25 ~~body or advisory agency, as required by that subdivision.~~

1 ~~SEC. 3.~~

2 *SEC. 2.* Section 2188.7 of the Revenue and Taxation Code is
3 amended to read:

4 2188.7. (a) Whenever the assessor receives a written request
5 for separate assessment of a community apartment project, a
6 stock cooperative, or a limited equity housing cooperative as
7 defined in Section 11003.2, 11003.4, or 11004 of the Business
8 and Professions Code, or any other similarly organized housing
9 cooperative, the assessor shall, on the first lien date which occurs
10 more than 60 days following the request, and on each lien date
11 thereafter, separately assess the individual interests described in
12 subdivision (b) held by the owners of the project or shareholders
13 of the corporation if the conditions specified in subdivision (c)
14 have been met. Whenever a community apartment project or
15 cooperative housing corporation is separately assessed, it shall
16 continue to be separately assessed in subsequent fiscal years and
17 once a request for separate assessment is made, it is binding on
18 all future owners and occupants of the project or corporation.

19 (b) For community apartment projects, and similarly organized
20 projects, the interest that is to be separately assessed pursuant to
21 subdivision (a) is the value of the right of exclusive occupancy in
22 a portion of the real property coupled with an undivided interest
23 in the land. For cooperative housing corporations, limited equity
24 housing cooperatives and similarly organized cooperatives, the
25 interest that is to be separately assessed is the value of the right
26 of exclusive occupancy which is transferable only concurrently
27 with the transfer of the share or shares of stock in the corporation
28 held by the person having such right of occupancy, together with
29 an interest in appurtenant common areas.

30 (c) Except as provided in subdivision (a), a separate
31 assessment of any interest described in subdivision (b) may not
32 be made by the assessor unless:

33 (1) The person making the request certifies that the owners or
34 shareholders have been notified and the request for separate
35 assessment has been approved in the manner provided in the
36 organizational documents of the organization involved for
37 approval of matters affecting the affairs of the organization
38 generally; and

39 (2) A diagrammatic floor plan of the improvements and a
40 survey plot map of the land showing the location of the

1 improvements on the land, prepared in the form required by
2 Chapter 2 (commencing with Section 66425) of Division 2 of
3 Title 7 of the Government Code, has been recorded with the
4 county recorder and filed with the assessor.

5 (3) Notwithstanding any other provision of law, a separate
6 valuation to divide any existing residential structure into a
7 subdivision, as defined in Section 66424 of the Government
8 Code, shall not be made until a subdivision final map or parcel
9 map, as described in Sections 66434 and 66445, respectively, of
10 the Government Code has been recorded as required by law. If
11 the requirement for a parcel map is waived pursuant to
12 subdivision (b) of Section 66428 of the Government Code, then
13 the assessor shall not assign any parcel numbers or prepare a
14 separate assessment or separate valuation, unless the applicant
15 provides a copy of the finding made by the legislative body or
16 advisory agency, as required by that subdivision.

17 (d) Notwithstanding the provisions of Section 2605 and
18 regardless of whether the board of supervisors has adopted a
19 resolution in accordance with Section 2700, the tax on interests
20 in a cooperative housing corporation or a limited-equity housing
21 corporation separately assessed pursuant to subdivision (a) shall
22 be entered on the secured roll and may be paid in two
23 installments as provided in Chapter 2.1 (commencing with
24 Section 2700) of Part 5. However, if:

25 (1) The tax on the separately assessed interest is unpaid when
26 any installment of taxes on the secured roll becomes delinquent,
27 the tax collector may use the procedures applicable to the
28 collection of delinquent taxes on the unsecured roll; and

29 (2) The tax on the separately assessed interest remains unpaid
30 at the time set for the declaration of default for delinquent taxes,
31 the tax on the separately assessed interest, together with any
32 penalties and costs which may have accrued thereon while on the
33 secured roll, shall be transferred to the unsecured roll.

34 (e) The tax on an individual interest in a community apartment
35 project, separately assessed pursuant to subdivision (a), shall be a
36 lien solely on that interest and shall be entered on and be subject
37 to all provisions of law applicable to taxes on the secured roll.

38 (f) The assessor shall provide to the principal office of each
39 community apartment project and cooperative housing
40 corporation within the taxing jurisdiction, at the time and in the

1 manner as he or she deems appropriate, adequate notice of the
2 provisions of this section and other pertinent information relative
3 to the implementation thereof.

4 (g) The assessor may charge a fee for the initial cost of
5 separately assessing a project or corporation which may be
6 collected on the tax bill.

7 ~~SEC. 4.~~

8 *SEC. 3.* Section 2823 of the Revenue and Taxation Code is
9 amended to read:

10 2823. (a) The county assessor shall determine a separate
11 valuation on the parcel, and shall determine the valuation of the
12 remaining parcel. The sum of the valuations of the parcels shall
13 equal their total valuation before separation.

14 (b) A separate valuation shall not be made of any parcel
15 covered by a subdivision map filed for record after the lien date
16 immediately preceding the current fiscal year. In connection with
17 the recording of a final subdivision map a segregation may
18 nevertheless be made so as to include all of the land within the
19 subdivision in a single parcel.

20 (c) A separate valuation shall not be made dividing any piece
21 of property separately assessed in the original assessment into
22 more than four parcels. However, this prohibition shall not apply
23 in any county in which the board of supervisors so provides in an
24 ordinance adopted by a majority vote of the board.

25 (d) Notwithstanding any other provision of law, a separate
26 valuation to divide any existing residential structure into a
27 subdivision, as defined in Section 66424 of the Government
28 Code, shall not be made until a subdivision final map or parcel
29 map, as described in Sections 66434 and 66445, respectively, of
30 the Government Code has been recorded as required by law. If
31 the requirement for a parcel map is waived pursuant to
32 subdivision (b) of Section 66428 of the Government Code, then
33 the assessor shall not assign any parcel numbers or prepare a
34 separate assessment or separate valuation, unless the applicant
35 provides a copy of the finding made by the legislative body or
36 advisory agency, as required by that subdivision.

37 (e) With respect to nonresidential subdivisions, without regard
38 to the number of parcels involved, which are covered by special
39 assessment liens the bonds for which are owned by a county, the
40 board of supervisors of that county may authorize the county

1 assessor, auditor, and tax collector to prorate the amounts for past
2 due property taxes and assessment liens, plus any interest and
3 penalties that may have accrued thereon, among the various
4 parcels in the subdivision. Notwithstanding any other provision
5 of law, the tax collector may then enter into an installment
6 payment agreement with respect to the pending subdivision map
7 and thereupon the agreement shall be deemed the equivalent of a
8 certificate pursuant to Section 66492 of the Government Code for
9 purposes of permitting the filing of the final map and shall be
10 recorded together with the final map, provided that the past due
11 property taxes, assessment liens, and the special assessment lien
12 shall not be discharged of record by the agreement, but shall be
13 prorated among the parcels created by the final map.

14 (f) If the application requested that the tax created by the
15 assessment of personal property, or leasehold improvements, or
16 possessory interests be allowed to remain as a lien on the parcel
17 sought to be separately valued, and the assessor determines that
18 the value of the parcel is sufficient to secure the payment of the
19 tax, the assessor shall set forth the value of such personal
20 property, or leasehold improvements, or possessory interests
21 opposite the assessor's determination of the value of the parcel.